

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

JORDAN T. BRESLOW,

Plaintiff,

v.

ALOYSIUS E. GLEESON, et al.,

Defendants.

CIVIL ACTION
NO. 21-4703

ORDER

AND NOW, this 10th day of January 2022, upon consideration of Defendants’ Motion for Extension of Time to File [an] Answer to Plaintiff’s Complaint (Doc. No. 9), Plaintiff’s Objection to [Defendants’] Motion for Extension of Time to File Answer to Plaintiff’s Complaint (Doc. No. 18), Plaintiff’s Motion for Default Judgment (Doc. No. 10), Defendants’ Motion to Strike [Plaintiff’s] Motion for Default Judgment Against or Alternatively, Response in Opposition to Plaintiff’s Motion for Default Judgment (Doc. No. 17), Plaintiff’s Objection to [Defendants’] Motion to Strike [Plaintiff’s] Motion for Default Judgment Against or Alternatively, Response in Opposition to Plaintiff’s Motion for Default Judgment (Doc. No. 19), Defendants’ Motion to Dismiss (Doc. No. 23), and following a review of the docket in the above-captioned case, it is **ORDERED** as follows:

1. Plaintiff’s Motion for Default Judgment (Doc. No. 10) is **DENIED**.¹

¹ On November 24, 2021, Defendants Aloysius E. Gleeson, Tope Lala, William McColley, Geoff Mirkin, and Solar Energy World, LLC (“SEW”), collectively the “SEW Defendants,” filed a Motion for Extension of Time (Doc. No. 9), requesting additional time to respond to the Complaint (Doc. No. 1). The same day, Plaintiff filed a Motion for Default Judgment (Doc. No. 10). On December 3, 2021, the SEW Defendants filed a Motion to Strike (Doc. No. 17), seeking to strike Plaintiff’s Motion for Default Judgment. On December 28, 2021, the SEW Defendants filed a joint Motion to Dismiss (Doc. No. 23).

2. Defendants' Motion to Strike Plaintiff's Motion for Default Judgment (Doc. No. 17) is **GRANTED** because the Motion for Default Judgment has been denied. The Clerk of Court shall leave the Motion for Default Judgment (Doc. No. 10) on the docket and mark it **DENIED**.
3. Defendants' Motion for Extension of Time to File [an] Answer to Plaintiff's Complaint (Doc. No. 9) is **GRANTED** nunc pro tunc.

BY THE COURT:

/s/ Joel H. Slomsky
JOEL H. SLOMSKY, J.

The Court will deny Plaintiff's Motion for Default Judgment for two reasons. First, the Clerk of Court has not entered a default in this case pursuant to Federal Rule of Civil Procedure Rule 55(a). FED. R. CIV. P. 55(a). Rule 55(b)(2) only "permits a district court to enter judgment by default against a defaulting party when default has been entered by the Clerk of Court." Carpenters Health & Welfare Fund of Philadelphia & Vicinity v. Bold & Clauss Const., Inc., No. CIV.A. 05-04858, 2006 WL 782051, at *1 (E.D. Pa. Mar. 23, 2006). Therefore, because a default has not been entered in this case, the Court may not enter a default judgment. Second, the SEW Defendants have entered their appearance in this case and are presently litigating the case. (See Doc. No. 8.) They have filed a joint Motion to Dismiss (Doc. No. 23), which must be responded to by Plaintiff. For these reasons, a default judgment is not warranted, and Plaintiff's Motion for Default Judgment (Doc. No. 10) will be denied.

In addition, the SEW Defendants' Motion to Strike (Doc. No. 17) will be granted because the Motion for Default Judgment (Doc. No. 10) has been denied. Further, because the SEW Defendants have responded to Plaintiff's Complaint by filing a joint Motion to Dismiss (Doc. No. 23), their Motion for Extension of Time to File an Answer to Plaintiff's Complaint (Doc. No. 9) will be granted nunc pro tunc.